

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JACK K. STEIN,

Petitioner,

v.

SCOTT FRAKES, Supt.,

Respondent.

Case No. C09-5006RBL

ORDER

THIS MATTER comes on before the above-entitled Court upon Petitioner's "Emergency Motion for Reconsideration re: Writ of Habeas Corpus" [Dkt. #118] and "Emergency Motion for Leave to File a 3rd Amended Habeas Petition" [Dkt. #119]. Having considered the entirety of the records and file herein, the Court finds and rules as follows:

This Court previously adopted Magistrate Judge J. Richard Creatura's Report and Recommendation dismissing petitioner's 28 U.S.C. § 2254 petition. Magistrate Judge Creatura recommended the petition be dismissed because petitioner, despite being given multiple chances to file a petition that satisfied the rules, continued to file petitions that the respondent would not be able to answer. Petitioner has now filed a petition that satisfies the rules and is one that the respondent can file a meaningful answer in response. As Magistrate Judge Creatura pointed out in his Report and Recommendation, the law favors that cases be decided on the merits. As such, petitioner's motions [Dkt. #s 118, 119] are **GRANTED**. The Judgment entered by this Court [Dkt. #115] is withdrawn and this

1 matter is referred to Magistrate Judge Creatura for further proceedings consistent with this Order.

2 **IT IS SO ORDERED.**

3 Dated this 26th day of October, 2009.

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5 RONALD B. LEIGHTON
6 UNITED STATES DISTRICT JUDGE
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